

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA, : CRIMINAL ACTION NO. 12-204 (MLC)

Plaintiff, :

v. :

C. TATE GEORGE, :

Defendant. :

OPINION

DEFENDANT was previously tried and found guilty by a jury and sentenced to a period of imprisonment by this Court. (Dkt. 206.)

DEFENDANT, on January 21, 2016, filed a Notice of Appeal to the Court of Appeals for the Third Circuit challenging his conviction. (Dkt. 207; dkt. 209.) The matter remains pending. See Appeals Docket No. 16-1170.

DEFENDANT has filed in this Court a motion to dismiss the indictment and vacate the conviction. (Dkt. 245; dkt. 246.)

THIS COURT lacks jurisdiction to act on Defendant's motion because he has filed a notice of appeal to the Third Circuit. See Bensalem Twp. v. Int'l Surplus Lines Ins. Co., 38 F.3d 1303, 1314 (3d Cir. 1994) ("[O]nce a notice of appeal is filed, jurisdiction is no longer vested in the district court."). Although exceptions exist when a district court may act after the notice of appeal is filed, none are applicable here. See In re Merck & Co. Sec. Litig., 432 F.3d 261, 268 (3d Cir. 2005) (noting that a district court may "review attorney's fees applications, order the filing of bonds, modify or grant

injunctions, issue orders regarding the record on appeal, and vacate bail bonds and order arrests”).

THIS COURT will deny Defendant’s motion for lack of jurisdiction.

For good cause appearing, the Court will enter an appropriate Order and Judgment.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge

Dated: December 8, 2016